

REMARKS

Claims 1-40 are pending in the application. Claims 5, 7 and 9 have been withdrawn pursuant to a restriction requirement. Applicants acknowledge that claims to additional species that include the limitations of any allowed generic claims will be considered upon such allowance. Applicants submit that at least claim 1 is generic.

In the Drawings:

The office action complains that the drawings are objectionable under 37 CFR 1.83(a) for failing to "show every feature of the invention specified in the claims." More specifically, the office action asserts that the sound chip (claims 26 and 38), illumination device (claim 27) and each of the characters/animals "recited throughout the claims must be shown or the feature(s) canceled from the claim(s)." Applicants respectfully disagree with the objection.

In traversing the rejection, applicants respectfully submit that 37 CFR 1.83(a) merely details the content of any required drawing. See 37 C.F.R. 1.81. Rule 81 provides that a drawing is only required "where necessary for the understanding of the subject matter sought to be patented. 37 C.F.R. 1.81(a). Rule 83 only comes into play if a drawing is required under rule 81. Indeed, rule 53 sets forth the requirements for an application and requires an application to have "any drawing required by § 1.81(a)." 37 C.F.R. 1.53(a). Here, a drawing of every possible character and breed of dog or other animal is certainly not necessary for an understanding of the invention. One skilled in the art, indeed any dog lover for example, can from their own experience practice the invention without seeing a drawing for each of the nearly 200 registered breeds of dogs. Moreover, there are numerous hybrid dogs, and even within each breed, one dog differs from another. Not only is a requirement to depict each of these dogs unnecessary to

allow practice of the invention, it is also overly onerous and contrary to the best mode requirement. Similarly, the universe of other animals and possible fictional characters is wide ranging, yet reproducible by one seeking to practice the inventions. Indeed, the office action itself recognizes that “the differences in ornamental design between dogs, cats, fictional characters, etc. are obvious and not patentably distinct from one another.” (Office action at p. 2.) So, too, the inclusion of a sound chip or illumination device is known to those skilled in the art such that a drawing under rule 1.81(a) is not necessary. Accordingly, applicants respectfully request reconsideration and withdrawal of the objection.

In the Claims

Claim Objections

The informalities of claim 32 have been corrected by replacing “cover” with “housing.”

Claim Rejections Under 35 U.S.C. § 102

“Claims 1-4, 6, 8, 10-21, 23-25, 28-37 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Anthony (U.S. Patent 6,425,632).” (Office action at p. 4.) While the above quote rejects the claims according to Anthony, the rejections that follow invoke “Anderson” without listing a patent number. It is unclear, therefore, whether the rejections are premised on the ‘632 patent to Anthony, or on U.S. Patent No. 1,273,717 to Anderson. As best as applicants can tell, the office action meant to cite the ‘717 patent to Anderson rather than the ‘632 patent to Anthony. This response is premised upon such premise. If applicants are incorrect in their attempts to rectify the incorrect citation, then a clarification is requested under MPEP 707.05(g).

In any event, applicants dispute that either Anthony or Anderson, anticipates any of the claims in the instant application. To anticipate under 35 U.S.C. § 102(b), it is axiomatic that a reference must contain each and every element of the claimed invention. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631; 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987); MPEP 2131. Here, to the extent that Anderson is the correct reference, applicants submit that Anderson does not disclose a “lever void defined by the frame” into which the lever is pushed as is required by independent claim 1. See, e.g., claim 1; Figs. 8A, 8B, 9; pg. 13, ll 5-18; pg. 17, ll 1-9. Rather, the lever 10 of Anderson moves into the mouth itself as opposed to a separate void defined by the frame. Any interpretation of Anderson that equates its mouth with the claimed lever void impermissibly conflates these separate limitations, effectively reading out the lever void. This limitation cannot be read out of the claim. *Texas Instruments, Inc. v. United States Int’l Trade Comm’n*, 988 F.2d 1165, 1171, 26 U.S.P.Q.2d 1018 (Fed. Cir. 1993) (all limitations of a claim must be considered meaningful and no claim language may be interpreted as mere surplusage). Accordingly, applicants respectfully request reconsideration of the rejection of claim 1 and all claims depending therefrom.

As for independent claims 31 and 34, applicants respectfully disagree that Anderson discloses, teaches or otherwise suggest a housing formed to resemble the head of a mammal. Anderson looks like a hook, and the so-called protrusions (2, 4, 14) are not even protrusions, much less ones that are anatomically representative. Such an interpretation is unreasonable in light of the specification. The Patent Office’s interpretation of claim terms must be “reasonable” and “consistent with the

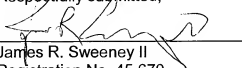
specification,” which the current suggestion is neither. See *In re Sneed*, 710 F.2d 1544, 1548 (Fed. Cir. 1983). Indeed, claim terms must be given their ordinary and accustomed meaning as set forth in the specification and as understood by those of ordinary skill in the art. See *V-Formation Inc. v. Benetton Group SpA*, 74 U.S.P.Q.2d 1042, 1045-47 (Fed. Cir. 2005) (noting that a rivet “is meant to remain permanent, unremovable unless one is bent on breaking the permanent structure apart”); *K-2 Corp. v. Salomon S.A.*, 52 U.S.P.Q.2d 1001, 1004 (Fed Cir. 1999); see also *Dorel Juvenile Group Inc. v. Graco Children’s Products Inc.*, 77 U.S.P.Q.2d 1090, 1092-93 (Fed. Cir. 2005) (interpreting “removably attached” and “removably secured” as meaning that a “seat and base can be separated ‘in a manner that contemplates that the seat may be removed from the base such that the seat remains functional’”). Nobody, much less one skilled in the art, would reasonably see in Anderson’s mere and unadorned hook any resemblance to any mammal. Accordingly, applicants respectfully submit that the rejections of claims 31 and 34 and the claims depending therefrom should be reconsidered and withdrawn.

Claim Rejections Under 35 U.S.C. § 103

Claims 22, 26-27, 38 and 40 are rejected as being obvious over Anderson, or Anderson in view of other references. In the first instance, applicants submit that all of the obviousness rejections are moot in light of the foregoing missing limitations in the primary Anderson reference. Accordingly, applicants respectfully request withdrawal of all rejections under 35 U.S.C. 103.

For the foregoing reasons, applicants respectfully submit that all pending claims are in condition for allowance. The Examiner is cordially invited to contact the undersigned by telephone to discuss any unresolved matters.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James R. Sweeney II', is written over a horizontal line.

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